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Attorney for Plaintiff, Shailey Michele Emery

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

Shailey Michele Emery,

Plaintiff,

v.

Kilolo Kijakazi, Acting
Commissioner of Social Security,

Defendant.

Case No. 1:20-cv-00461-SKO

**STIPULATION FOR THE AWARD
AND PAYMENT OF ATTORNEY
FEES AND EXPENSES PURSUANT
TO THE EQUAL ACCESS TO
JUSTICE ACT; ORDER**

(Doc. 22)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of SIX THOUSAND FOUR-HUNDRED FORTY DOLLARS and 00/100 (\$6,440.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to

1 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability
2 to honor the assignment will depend on whether the fees are subject to any offset
3 allowed under the United States Department of the Treasury's Offset Program. After
4 the order for EAJA fees is entered, the government will determine whether they are
5 subject to any offset.

6 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
7 determines that Plaintiff does not owe a federal debt, then the government shall cause
8 the payment of fees, expenses and costs to be made directly to Counsel, pursuant to
9 the assignment executed by Plaintiff. Any payments made shall be delivered to
10 Plaintiff's counsel, Jonathan O. Peña.

11 This stipulation constitutes a compromise settlement of Plaintiff's request for
12 EAJA attorney fees, and does not constitute an admission of liability on the part of
13 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
14 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
15 Counsel including Counsel's firm may have relating to EAJA attorney fees in
16 connection with this action.

17 This award is without prejudice to the rights of Counsel and/or Counsel's firm
18 to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the
19 savings clause provisions of the EAJA.

20 Respectfully submitted,

21
22 Dated: November 15, 2021

/s/ Jonathan O. Peña

23 JONATHAN O. PEÑA
24 Attorney for Plaintiff

25 Dated: November 16, 2021

26 PHILLIP A. TALBERT
27 Acting United States Attorney
28 DEBORAH LEE STACHEL
Regional Chief Counsel, Region IX

Social Security Administration

By: * *Marcelo N. Illarmo*

Marcelo N. Illarmo

Special Assistant U.S. Attorney

Attorneys for Defendant

(*Permission to use electronic signature
obtained via email on November 16, 2021).

ORDER

Based upon the foregoing Stipulation for the Award and Payment of Equal
Access to Justice Act Fees and Expenses of the parties (the “Stipulation”) (Doc. 22),

IT IS ORDERED that fees and expenses in the amount of SIX THOUSAND
FOUR-HUNDRED FORTY DOLLARS and 00/100 (\$6,440.00) as authorized by the
Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the
terms of the Stipulation.

IT IS SO ORDERED.

Dated: **November 24, 2021**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE